

### **REMARKS**

Claims 1, 4-6, 8, 9, 11-13 and 15-17 are now pending in the application with Claims 2, 3, 7, 10 and 14 being cancelled herein. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 101**

Claims 1-17 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner's attention is directed to independent Claims 1, 6 and 13 which have been amended to include the limitation that the methods utilize a computer to monitor specific claims and generate a report related thereto.

Applicant respectfully submits the invention produces useful, concrete and tangible results as the system utilizes a computer to generate reports that are used to reduce both direct and indirect costs to the employer. At the same time, the system extends technical training of proactive claims management to TPA/Carrier assigned claims adjusters who are interacted with on behalf of clients. The system improves a claims management process by improving the nature of intervention and guidance, and the sharing of expertise.

The steps utilized by the system are meaningful and have a specific purpose in achieving the desired level of claims management that will result in the injured/ill employee obtaining appropriate, timely medical treatment that will ultimately impact their and their families' lives and positively impacts the employer's exposure.

For example, the steps in claim 6 recites actual processes and procedures based on prescribed criteria, knowledge, and experience of extending proactive claims management including the classification of claims as being “high risks.” The system does advance technical arts and produces useful, concrete results. The system is configured to investigate, recognize and react to key issues presented within a specific claim and develop a sound action plan that will move the claim toward a cost effective conclusion.

#### **REJECTION UNDER 35 U.S.C. § §102 & 103**

Claims 1-3, 5-9, 12-13 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fernberg, “Charting a Course Toward Lower Workers’ Comp Claims.”

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernberg “Charting a Course Toward Lower Workers’ Comp Claims” in view of Hammond et al. (U.S. Pat. No. 5,712,984). Claims 10-11, 14 and 16-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernberg, “Charting A Course Toward Lower Workers’ Comp Claims” in view of Anthony, “Workers’ Compensation Fraud.” In view of the amendments and arguments herein, these rejections are respectfully traversed.

The Examiner’s attention is respectfully directed to independent Claim 1 which has been modified to incorporate the elements the Applicants believe to be the best practices utilized in a workers’ compensation claim management process. In this regard, Applicants further directs the Examiner’s attention to amended independent Claim 1 which includes the close ended list form “essentially consist of.”

The Examiner's attention is further directed to amended independent Claim 6 which has been amended to incorporate the list of questions which the Applicants believe are determinative of the classification of a claimant as being "high-risk." The Examiner's attention is again directed to the closed form listing which utilizes an "essentially consist of" preamble.

With respect to the rejections of Claims 10-11, 14 and 16-17 over Fernberg in view of Anthony, the Office Action combines the references in various ways in an attempt to show that the Applicants' invention is obvious. In doing so, the Office Action broadly makes the statement that Anthony teaches documenting inconsistencies and clues that would warrant a more detailed investigation. In doing so, the Examiner states that one of ordinary skill in the art would be motivated to utilize one of the practices of the list.

Applicants respectfully submit that none of the references alone or in combination teach the list of preferred practices as is presently claimed. As such, rejection under 35 U.S.C. § 103 is improper. The system as claimed contains all key issues presented, adjuster action plans and discussion items relative to the claims being monitored and acted upon. This information is reviewed with the assigned TPA/Carrier claims adjuster and they learn from the process and become better adjusters accordingly. The interaction activities as prescribed by the system make a tangible, positive difference in the claims being monitored.

The system advances the art by directing those skilled in the art, (a seasoned claims adjuster) to "think out-of-the-box" and draw on their knowledge, expertise, and communication skills. In order for the system to work, the ECA claims associates must


learn to apply their knowledge and experience in an entirely different manner that requires a new and different mind-set when they approach each and every claim they are auditing or monitoring. The increased technical process produces behavioral changes and knowledge growth of the TPA/Carrier claims adjusters. The system changes the way the claims adjusters interact with clients' assigned claims.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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